

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FELICIA A. JEFFERSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 18-2620-KHV
)	
AMSTED RAIL COMPANY, INC.,)	
)	
Defendant.)	

ORDER

On November 18, 2019, the court granted defendant's motion for sanctions based on plaintiff's continued failure to comply with discovery requests and orders (ECF No. 55). The court awarded defendant its attorneys' fees incurred in bringing motions to compel and a motion for sanctions, but directed the parties to attempt to reach agreement on the *amount* of fees, considering plaintiff's financial ability to pay (plaintiff is proceeding in forma pauperis). Because the parties were unable to reach an agreement, defendant has filed a motion asking the court to set the amount (ECF No. 57).

Defendant has submitted billing records demonstrating it incurred \$7,724 in attorneys' fees (excluding time spent by junior associates) in connection with the motions.¹ But given plaintiff's in forma pauperis status, defendant requests the court order payment in an amount no less than \$2,500. Plaintiff responds that she "wholly lacks the ability to

¹ ECF No. 57-1.

pay Defendant \$2,500.”² She states she has been “off work for the last month” and “is already in financial distress.”³ She asserts that an award of \$2,500 would effectively bar her access to the court and suggests an award of \$100 would be more appropriate.

The court recognizes that plaintiff is unable to pay \$2,500 in fees out of pocket at this time. The court also is cognizant that the sanction awarded must both reflect the burden plaintiff’s inactions have inflicted upon defendant *and* serve as a significant deterrent to her future misconduct. Thus, the court finds it appropriate to order plaintiff to pay defendant \$200 now and to order that, should plaintiff ultimately recover an amount of damages in this action, \$7,524 will be credited against that award and used to further offset defendant’s attorneys’ fees.

IT IS THEREFORE ORDERED that plaintiff shall pay defense counsel \$200 by **January 31, 2020**. It is further ordered that any recovery plaintiff obtains in this case be discounted by \$7,524.

IT IS FURTHER ORDERED that defendant’s recent renewed motion for additional sanctions, filed on December 10, 2019 (ECF No. 59), remains pending. Plaintiff is reminded she must file her response to the motion, which seeks the dispositive sanction of dismissal with prejudice, by **December 31, 2019**.

Plaintiff is hereby informed that, within 14 days after she is served a copy of this order, she may, pursuant to Fed. R. Civ. P. 72 and D. Kan. Rule 72.1.4(a), file written

² ECF No. 61 at 2.

³ *Id.*

objections to this order by filing a motion for review of this order. Plaintiff must file any objections within the 14-day period if she wants to have appellate review of this order. If plaintiff does not timely file her objections, no court will allow appellate review.

December 16, 2019, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge